

City of Carmel

Common Council

**June 19, 2006
6:00 P.M.**

COMMON COUNCIL MEETING AGENDA

MONDAY, JUNE 19, 2006 – 6:00 P.M.
COUNCIL CHAMBERS/CITY HALL/ONE CIVIC SQUARE

MEETING CALLED TO ORDER

1. INVOCATION
2. PLEDGE OF ALLEGIANCE
3. RECOGNITION OF CITY EMPLOYEES AND OUTSTANDING CITIZENS
4. APPROVAL OF MINUTES
 - a. June 5, 2006 Regular Meeting
 - b. June 7, 2006 Special Meeting
5. RECOGNITION OF PERSONS WHO WISH TO ADDRESS THE COUNCIL
6. COUNCIL, MAYORAL AND CLERK-TREASURER COMMENTS/OBSERVATIONS
7. ACTION ON MAYORAL VETOES
8. CLAIMS
 - Payroll
 - General Claims
 - Retirement
9. COMMITTEE REPORTS
 - a. Finance, Administration and Rules Committee
 - b. Land Use, Annexation and Economic Development Committee
 - c. Parks, Recreation and Arts Committee
 - d. Utilities, Transportation and Public Safety Committee

10. OLD BUSINESS

- a. **Sixth Reading of Ordinance D-1799-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Pertaining to Bidding on Certain Public Works Projects (Section 2-183, Immediate Family Bidding Restriction On Public Works Projects); Sponsor(s): Councilor(s) Glaser and Sharp.
- b. **Second Reading of Ordinance D-1810-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Amending Chapter 6, Article 5, Division VIII, Sections 6-161(b)(3) and 6-161(c)(1) of the Carmel City Code (No Smoking); Sponsor: Councilor Griffiths.
- c. **Second Reading of Ordinance D-1811-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Concerning Council District Boundaries; Sponsor(s): Councilor(s) Sharp, Glaser, Griffiths, Kirby and Mayo.
- d. **Fifth Reading of Ordinance Z-489-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Rezoning District Classification, Rezoning the Property Located Southwest of the Intersection of Main Street and Old Meridian Street from Old Meridian/Special Use (OM/SU) and Old Meridian/Single Family Attached (OM/SFA) to the Old Meridian Mixed Use (OM/MU) Classification (Centex Homes-Old Meridian); Sponsor: Councilor Glaser.
- e. **Second Reading of Ordinance Z-492-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Establishing the Village Green Planned Unit Development District (Village Green Townhomes – 211 West Smokey Row Road); Sponsor: Councilor Rattermann.

11. PUBLIC HEARINGS

- a. **First Reading of Ordinance D-1808-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Vacating a Portion of a Public Right-Of-Way (Old Meridian Street); Sponsor: Councilor Rattermann.

12. NEW BUSINESS

- a. **First Reading of Ordinance D-1809-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Vacating A Platted Right-Of-Way (Pearl Street – Rolling Meadows Subdivision); Sponsor: Councilor Sharp.
- b. **First Reading of Ordinance D-1813-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Approving and Adopting Interlocal Agreement (Deputy Prosecuting Attorney); Sponsor: Councilor Carter.

13. **OTHER BUSINESS**

- a. **Second Reading of Ordinance D-1782-05**; An Ordinance of the Common Council of the City of Carmel, Indiana to Vacate a Segment of Right-Of-Way for River Road; Sponsor: Councilor Glaser. TABLED 12/19/05

14. **ANNOUNCEMENTS**

15. **EXECUTION OF DOCUMENTS**

16. **ADJOURNMENT**

COMMON COUNCIL MEETING MINUTES

MONDAY, JUNE 5, 2006 – 6:00 P.M.

COUNCIL CHAMBERS/CITY HALL/ONE CIVIC SQUARE

MEMBERS PRESENT:

Council President Richard L. Sharp, Council Members Kevin Kirby, Brian D. Mayo, Joseph C. Griffiths, Fredrick J. Glaser, Ronald E. Carter, Mark Rattermann, Clerk-Treasurer Diana L. Cordray and Deputy Clerk-Treasurer Lois Fine.

Mayor James Brainard was not in attendance.

Council President Sharp called the meeting to order at 6:00 p.m.

Carmel Police Chaplain, George Davis, pronounced the Invocation.

Council President Sharp led the Pledge of Allegiance.

RECOGNITION OF CITY EMPLOYEES AND OUTSTANDING CITIZENS:

There were none.

APPROVAL OF MINUTES:

Councilor Griffiths made a motion to approve the Minutes of the May 15, 2006 Regular Meeting.

Councilor Glaser seconded. There was no Council discussion. Council President Sharp called for the question. The minutes were approved 5-0 (Councilor Mayo abstained; Councilor Carter was not in Council Chambers during the vote).

RECOGNITION OF PERSONS WHO WISH TO ADDRESS THE COUNCIL:

There were none.

COUNCIL, MAYORAL AND CLERK-TREASURER COMMENTS/OBSERVATIONS:

Council President Sharp discussed agenda item 11 a. (Ordinance Z-491-06). Council President Sharp discussed a letter from Paul Shoopman requesting this item to be withdrawn.

ACTION ON MAYORAL VETOES:

There were none.

CLAIMS:

Councilor Mayo made a motion to approve the claims in the amount of \$2,908,195.04. Councilor Griffiths seconded. There was no Council discussion. Council President Sharp called for the question. Claims were approved 7-0.

COMMITTEE REPORTS:

Councilor Rattermann reported that the Finance, Administration and Rules Committee met this evening and discussed Ordinance D-1799-06 and Ordinance D-1806-06.

Councilor Glaser reported that the Land Use, Annexation and Economic Development Committee met on Tuesday, May 23, 2006 and discussed Ordinance Z-491-06 which was sent to the full Council with a 0-4 unfavorable recommendation.

Councilor Carter reported that the Parks, Recreation and Arts Committee had not met.

Councilor Kirby reported that the Utilities, Transportation and Public Safety Committee had not met.

OLD BUSINESS

Council President Sharp announced the **Fifth Reading of Ordinance D-1799-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Pertaining to Bidding on Certain Public Works Projects (Section 2-183, Immediate Family Bidding Restriction On Public Works Projects). Councilor Rattermann made a motion that this item be moved to the end of New Business to allow the City Attorney time to make revisions. This item was moved to the full Council from the Finance Committee with a recommendation that the City Attorney write the amendments discussed at Committee. There was no objection from the Council to move this item to the end of New Business.

Council President Sharp announced the **Third Reading of Ordinance D-1806-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Approving a Lease for Certain Public Improvements Between the City of Carmel Redevelopment Authority and the City of Carmel Redevelopment Commission, Pledging County Option Income Tax Revenues of City to Pay Certain Lease Rental Obligations Thereunder, and Taking Other Actions Related Thereto (\$6,100,000). Councilor Rattermann informed Council that this item was sent to the full Council from the Finance Committee with a 0-4 unfavorable recommendation. There was brief Council discussion. Councilor Rattermann made a motion to move Ordinance D-1806-06, As Amended, VERSION B – 6/5/06 into business. Councilor Griffiths seconded. There was no Council discussion. Council President Sharp called for the question. The motion was approved 7-0. Councilor Rattermann presented handouts to the Council (Attachments 1, 2 and 3). Councilor Rattermann made a motion to move Ordinance D-1806-06, As Amended, VERSION C – 6/5/06 into business. Councilor Glaser seconded. There was major Council discussion. Councilor Griffiths made a motion to add Cool Creek North Trail, Monon Bridge over Carmel Drive, and Survive Alive House back into Exhibit C from Councilor Rattermann’s amended version. The motion died for lack of a second. Council President Sharp called for the question. The motion to accept VERSION C – 6/5/06 failed 2-5 (Council President Sharp and Councilors Kirby, Mayo, Griffiths and Carter opposed). Council President Sharp called for the question. The motion to adopt Ordinance D-1806-06 was approved 5-2 (Councilors Glaser and Rattermann opposed). There was brief Council discussion. Council President Sharp called for the question. The motion to adopt **Ordinance D-1806-06, As Amended, VERSION B – 6/5/06**, was adopted 5-2 (Councilors Glaser and Rattermann opposed).

Council President Sharp announced **Fourth Reading of Ordinance Z-489-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Rezoning District Classification, Rezoning the Property Located Southwest of the Intersection of Main Street and Old Meridian Street from Old Meridian/Special Use (OM/SU) and Old Meridian/Single Family Attached (OM/SFA) to the Old Meridian Mixed Use (OM/MU) Classification (Centex Homes-Old Meridian); Sponsor: Councilor Glaser. This Ordinance remains in LUAC.

1 **PUBLIC HEARINGS**

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3 Council President Sharp announced the **Second Reading of Ordinance Z-491-06**; An Ordinance of the
4 Common Council of the City of Carmel, Indiana, Establishing the Fortune Planned Unit Development
5 District. Council President announced the Public Hearing was held open from May 15, 2006. Ernie
6 Reno, 1227 Bluff Road, Plainfield, Indiana, attended on behalf of his client, Paul Shoopman. Mr. Reno
7 addressed the Council and read a statement (Attachment 4) from the Indiana Land Development
8 Corporation regarding their request to withdraw (Attachment 5) their request for a zoning change. There
9 was brief Council discussion. Councilor Rattermann made a motion to approve Ordinance Z-491-06.
10 Councilor Glaser seconded. There was brief Council discussion. Seeing no one else who wished to
11 speak, Council President Sharp closed the Public Hearing at 6:52 p.m. There was no Council discussion.
12 Council President Sharp called for the question. Ordinance Z-191-06 failed 0-7.
13

14 Council President Sharp announced the **First Reading of Ordinance Z-492-06**; An Ordinance of the
15 Common Council of the City of Carmel, Indiana, Establishing the Village Green Planned Unit
16 Development District (Village Green Townhomes – 211 West Smokey Row Road). Councilor Mayo
17 made a motion to move this item into business. Councilor Rattermann seconded. Councilor Rattermann
18 referred to Jim Shinaver, Attorney, Nelson & Frankenberger, 3105 E. 98th Street, Suite 170, Indianapolis,
19 IN 46280 for a presentation to Council. Also in attendance were Bruce Sklare with Bay Development
20 and John Talbot with Drees Homes. There was no Council discussion. Council President Sharp opened
21 the Public Hearing at 7:03 p.m.
22

23 The following individual spoke in opposition to Ordinance Z-492-06:
24

25 Kurt Jaenicke, 146 Old Grayce Lane, Carmel, IN 46032, representing the Carmel Residents
26 For Historic Preservation.
27

28 There was brief Council discussion. Council President Sharp referred Ordinance Z-492-06 to the Land
29 Use, Annexation and Economic Development Committee for further review and consideration.
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31 **NEW BUSINESS**

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33 Council President Sharp announced **First Reading of Ordinance D-1807-06**; An Ordinance of the
34 Common Council of the City of Carmel, Indiana, Enacting and Adopting a Supplement to the Code of
35 Ordinances of the city of Carmel, Indiana (ALP 1st Quarter 2006). Councilor Kirby made a motion to
36 move this item into business and suspend the rules and not send this item to committee and vote this
37 evening. Councilor Griffiths seconded. There was no Council discussion. Council President Sharp
38 called for the question. The motion was approved 7-0. Councilor Glaser presented this item to Council.
39 There was no Council discussion. Council President Sharp called for the question.
40

41 **Ordinance D-1807-06** was adopted 7-0.

42 Council President Sharp announced **First Reading of Ordinance D-1809-06**; An Ordinance of the
43 Common Council of the City of Carmel, Indiana, Vacating A Platted Right-Of-Way (Pearl Street –
44 Rolling Meadows Subdivision); Sponsor: Councilor Sharp. This item was not introduced.
45

46 Council President Sharp announced the **First Reading of Ordinance D-1810-06**; An Ordinance of the
47 Common Council of the City of Carmel, Indiana, Amending Chapter 6, Article 5, Division VIII, Sections
48 6-161(b)(3) and 6-161(c)(1) of the Carmel City Code (No Smoking). Councilor Griffiths made a motion
49 to move this item into business. Councilor Sharp seconded. Councilor Griffiths presented this item to
50 Council. There was no Council discussion. Council President Sharp referred Ordinance D-1810-06 to the
51 Utilities, Transportation and Public Safety Committee for further review and consideration.
52

Council President Sharp announced the **First Reading of Ordinance D-1811-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Concerning Council District Boundaries. Councilor Mayo made a motion to move this item into business. Councilor Griffiths seconded. Council President Sharp passed the gavel to Councilor Glaser to present this item to Council. There was no Council discussion. Council President Sharp made a motion to suspend the rules and not send this item to Council and vote this evening. Councilor Kirby seconded. There was brief Council discussion. Councilor Carter stated that he was not going to vote for this (redistricting) at all, and Carmel should have second class city status. Councilor Glaser called for the question. The motion failed 3-3 (Councilors Glaser, Carter and Rattermann opposed). Councilor Glaser referred Ordinance D-1811-06 to the Land Use, Annexation and Economic Development Committee for further and consideration.

Council President Sharp reclaimed the gavel from Councilor Glaser.

Council President Sharp announced **Resolution CC-06-05-06-01**; A Resolution of the Common Council of the City of Carmel, Indiana, Expressing Interest in the Purchase of Certain Properties Valued at Over \$25,000 and Associated with the City's Road Improvement Projects (Five Properties). Councilor Mayo made a motion to move this item into business. Councilor Glaser seconded. Council President Sharp presented this item to Council. There was no Council discussion. Council President Sharp called for the question. **Resolution CC-06-05-06-01** was adopted 7-0.

Fifth Reading of Ordinance D-1799-06; An Ordinance of the Common Council of the City of Carmel, Indiana, Pertaining to Bidding on Certain Public Works Projects (Section 2-183, Immediate Family Bidding Restriction On Public Works Projects). Councilor Rattermann made a motion that this item be moved to the end of New Business to allow the City Attorney time to revise. This item was moved to the full Council from the Finance Committee with a recommendation that the City Attorney revise with amendments discussed at Committee. There was no objection from the Council to move this item to the end of New Business. However, this item was not discussed since the City Attorney was not able to make the amendments to this ordinance that were discussed in the Finance Committee meeting.

OTHER BUSINESS

Second Reading of Ordinance D-1782-05; An Ordinance of the Common Council of the City of Carmel, Indiana to Vacate a Segment of Right-Of-Way for River Road; Sponsor: Councilor Glaser. TABLED 12/19/05. This ordinance remains Tabled.

Property Abatements/Compliance with Statement of Benefits – Presented to Council by Clerk-Treasurer Diana L. Cordray. There was brief Council discussion. Forms needed to be signed by Council President Sharp (1. 303 Group LLC - Specialty Risk International; 2) Allete Automotive Services; 3) Dealer Services Corporation; 4) PHT Investment Holdings, LLC (SB-1 filed Under CIHS NEWCO – Medical Office Building) NEW OWNER; 5) The Heart Center of Indiana, LLC (Formerly filed as CIHS NEWCO, LLC). No formal action required. Councilor Kirby moved to accept the recommendation from the Finance Committee to approve the report. Councilor Glaser seconded. Council President Sharp called for the question. The motion was approved 7-0.

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ANNOUNCEMENTS

Councilor Kirby announced that the next Utilities, Transportation and Public Safety Committee meeting will be held on Monday, June 12, 2006 at 5:00 p.m.

EXECUTION OF DOCUMENTS

Council President Sharp adjourned the meeting at 7:40 p.m.

ADJOURNMENT

Respectfully submitted,

Clerk-Treasurer Diana L. Cordray, IAMC

Approved,

Mayor James Brainard

ATTEST:

Clerk-Treasurer Diana L. Cordray, IAMC

COMMON COUNCIL MEETING MINUTES

WEDNESDAY, JUNE 7, 2006 – 5:00 P.M.
COUNCIL CHAMBERS/CITY HALL/ONE CIVIC SQUARE

MEMBERS PRESENT:

Mayor James Brainard, Council President Richard L. Sharp, Council Members Joseph C. Griffiths, Fredrick J. Glaser, Ronald E. Carter, Mark Rattermann, Clerk-Treasurer Diana L. Cordray and Deputy Clerk-Treasurer Lois Fine.

Councilors Kevin Kirby and Brian D. Mayo were not in attendance.

RECOGNITION OF PERSONS WHO WISH TO ADDRESS THE COUNCIL:

There were none.

COUNCIL, MAYORAL AND CLERK-TREASURER COMMENTS/OBSERVATIONS:

There were none.

NEW BUSINESS

Council President Sharp announced the **First Reading of Ordinance D-1812-06**; An Ordinance of the Common Council of the City of Carmel, Indiana, Approving the Asset Purchase Agreement by and between the City of Carmel, Hamilton County, Indiana, and the Consolidated City of Indianapolis, Marion County, Indiana, and its Department of Waterworks. Council President Sharp offered a substitute document to Council. Councilor Griffiths made a motion to move this item into business. Councilor Glaser seconded. Council President Sharp referred to John Duffy, Director, Utilities, for a presentation to Council. There was brief Council discussion. Randy Seger, Attorney, Bingham McHall LLP, 2700 Market Tower, 10 West Market Street, Indianapolis, IN 46024, addressed Council. Councilor Griffiths made a motion to suspend the rules and not send this item to committee and vote this evening. Councilor Rattermann seconded. Council President Sharp called for the question. The motion was approved 5-0. Councilor Rattermann made a motion to approve Ordinance D-1812-06. Councilor Carter seconded. Council President Sharp called for the question. **Ordinance D-1812-06** was adopted 5-0.

ANNOUNCEMENTS

There were none.

EXECUTION OF DOCUMENTS

Mayor Brainard adjourned the meeting at 5:30 p.m.

ADJOURNMENT

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Respectfully submitted,

Clerk-Treasurer Diana L. Cordray, IAMC

Approved,

Mayor James Brainard

ATTEST:

Clerk-Treasurer Diana L. Cordray, IAMC

ORDINANCE D-1799-06

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF CARMEL, INDIANA,
PERTAINING TO BIDDING ON CERTAIN PUBLIC WORKS PROJECTS**

WHEREAS, the City is authorized to enter into contracts for the construction, alteration and renovation of public buildings and structures that are paid for out of public funds; and

WHEREAS, Indiana Code 36-1-12 does not regulate City public works projects of less than Fifty Thousand Dollars (\$50,000.00) in value; and

WHEREAS, several recent public works projects with values of less than Fifty Thousand Dollars (\$50,000.00) have been awarded to persons who are City employees, which has been viewed by some members of the public as suggesting that City employees have an unfair advantage in seeking such projects; and

WHEREAS, although the Common Council has no knowledge nor belief that any City employee has actually obtained any advantage in seeking any City public works project, it is very important that the public's trust not be diminished by even the suggestion of impropriety regarding the awarding of such projects; and

WHEREAS, to ensure that the public appearance, as well as the actuality, of impartiality is present in the awarding of all City public works projects, it is proper to now prohibit any full-time City employee, as well as any member of such employee's immediate family, from being eligible to seek and/or to be awarded any contract for any City public works project having a value of less than Fifty Thousand Dollars (\$50,000.00) and paid primarily or wholly out of public funds.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Carmel, Indiana, as follows:

Section 1. The foregoing Recitals are incorporated herein by this reference.

Section 2. Chapter 2, Article 5, Section 2-183 should be and the same is hereby adopted and added to the Carmel City Code and shall read as follows:

"Sec. 2-183 Immediate Family Bidding Restriction On Public Works Projects.

- a. No full-time employee of the City, nor such person's spouse, nor anyone within the first degree of consanguinity of such person or of such person's spouse (e.g., within one degree of relationship by blood or marriage) shall be eligible to seek and/or to be awarded any contract for any City public works project having a value of less than Fifty Thousand Dollars (\$50,000.00), eighty percent (80%) or more of which is paid out of public funds.

Page One of Three Pages

The initial draft of this document was prepared by Douglas C. Haney, Carmel City Attorney on February 22, 2006. Any changes thereafter made to this document are the sole responsibility of the document sponsor.

- b. Any quote or other proposal received by the City in violation of this Section shall be deemed null and void and shall not be considered when awarding the public works project contract to which it relates."

Section 3. The remaining provisions of Carmel City Code Chapter 2, Article 5, are not affected by this Ordinance and remain in full force and effect.

Section 4. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed, to the extent of such inconsistency only, as of the effective date of this Ordinance. However, the repeal or amendment by this Ordinance of any other ordinance does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this Ordinance. Those rights, liabilities and proceedings are continued and penalties shall be imposed and enforced under such repealed or amended ordinance as if this Ordinance had not been adopted.

Section 5. If any portion of this Ordinance is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance so long as enforcement of same can be given the same effect.

Section 6. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor pursuant to Indiana law.

PASSED by the Common Council of the City of Carmel, Indiana, this ____ day of _____ 2006, by a vote of _____ ayes and _____ nays.

COMMON COUNCIL FOR THE CITY OF CARMEL, INDIANA

Presiding Officer

Joseph C. Griffiths

Richard L. Sharp, President Pro Tempore

Kevin Kirby

Ronald E. Carter

Brian D. Mayo

Fredrick J. Glaser

Mark Rattermann

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

Ordinance No. D-1799-06

Page Two of Three Pages

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Presented by me to the Mayor of the City of Carmel, Indiana, this _____ day of _____,
2006, at _____ O'clock, _____. M.

Diana L. Cordray, IAMC, Clerk-Treasurer

Approved by me, Mayor of the City of Carmel, Indiana, this _____ day of _____
2006, at _____ O'clock, _____. M.

James Brainard, Mayor

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

Ordinance No. D-1799-06
Page Three of Three Pages

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ORDINANCE D-1799-06
AS AMENDED

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF CARMEL, INDIANA,
PERTAINING TO BIDDING ON CERTAIN PUBLIC WORKS PROJECTS

WHEREAS, the City is authorized to enter into contracts for the construction, alteration and renovation of public buildings and structures that are paid for out of public funds; and

WHEREAS, Indiana Code 36-1-12 does not regulate City public works projects of less than Fifty Thousand Dollars (\$50,000.00) in value; and

~~**WHEREAS**, several recent public works projects with values of less than Fifty Thousand Dollars (\$50,000.00) have been awarded to persons who are City employees, which has been viewed by some members of the public as suggesting that City employees have an unfair advantage in seeking such projects; and~~

~~**WHEREAS**, although the Common Council has no knowledge nor belief that any City employee has actually obtained any advantage in seeking any City public works project, it is very important that the public's trust not be diminished by even the suggestion of impropriety regarding the awarding of such projects; and~~

WHEREAS, it is in the public interest to ensure that all public works projects of substantial value that are the public appearance, as well as the actuality, of impartiality is present in the awarding of all City public works projects, it is proper to now prohibit any full time City employee, as well as any member of such employee's immediate family, from being eligible to seek and/or to be awarded any contract for any City public works project having a value of less than Fifty Thousand Dollars (\$50,000.00) and paid primarily or wholly out of public funds are bonded.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Carmel, Indiana, as follows:

Section 1. The foregoing Recitals are incorporated herein by this reference.

Section 2. Chapter 2, Article 5, Section 2-183 should be and the same is hereby adopted and added to the Carmel City Code and shall read as follows:

"Sec. 2-183 ~~Immediate Family Bond~~ **Required Restriction** On Public Works Projects.

- a. ~~No full time employee of the City, nor such person's spouse, nor anyone within the first degree of consanguinity of such~~ Every person or of such person's spouse (e.g., within one degree of relationship by blood or marriage) shall be eligible to seek and/or to be awarded any contract for any City public works project having a value of more than \$7,500 but less than Fifty Thousand Dollars (\$50,000.00), eighty percent (80%) or more of which is paid out of public funds, shall require a performance bond to ensure the timely and satisfactory completion of the project.

VERSION A – 6/8/06

The initial draft of this document was prepared by Douglas C. Haney, Carmel City Attorney on February 22, 2006. Any changes thereafter made to this document are the sole responsibility of the document sponsor.

- b. The amount of the performance bond shall be as follows: ~~Any quote or other proposal received by the City in violation of this Section shall be deemed null and void and shall not be considered when awarding the public works project contract to which it relates."~~
- (i) Projects less than \$7,500.00 -- No bond required;
 - (ii) Projects greater than \$7,500.00 but less than \$10,000.00 -- \$10,000.00 bond;
 - (iii) Projects between \$10,000.00 and \$25,000.00 -- \$25,000 bond;
 - (iv) Projects more than \$25,000.00 -- \$50,000.00 bond
- c. Any quote, bid or other proposal received by the City in violation of this Section shall be deemed null and void and shall not be considered when awarding the public works project contract to which it relates.

Section 3. The remaining provisions of Carmel City Code Chapter 2, Article 5, are not affected by this Ordinance and remain in full force and effect.

Section 4. All prior ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed, to the extent of such inconsistency only, as of the effective date of this Ordinance. However, the repeal or amendment by this Ordinance of any other ordinance does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this Ordinance. Those rights, liabilities and proceedings are continued and penalties shall be imposed and enforced under such repealed or amended ordinance as if this Ordinance had not been adopted.

Section 5. If any portion of this Ordinance is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance so long as enforcement of same can be given the same effect.

Section 6. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor pursuant to Indiana law.

PASSED by the Common Council of the City of Carmel, Indiana, this ____ day of _____ 2006, by a vote of _____ ayes and _____ nays.

COMMON COUNCIL FOR THE CITY OF CARMEL, INDIANA

Presiding Officer

Joseph C. Griffiths

Richard L. Sharp, President Pro Tempore

Kevin Kirby

Ronald E. Carter

Brian D. Mayo

Fredrick J. Glaser

Mark Rattermann

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

Presented by me to the Mayor of the City of Carmel, Indiana, this ____ day of _____,
2006, at _____ O'clock, _____. M.

Diana L. Cordray, IAMC, Clerk-Treasurer

Approved by me, Mayor of the City of Carmel, Indiana, this ____ day of _____
2006, at _____ O'clock, _____. M.

James Brainard, Mayor

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

VERSION A – 6/8/06

The initial draft of this document was prepared by Douglas C. Haney, Carmel City Attorney on February 22, 2006. Any changes thereafter made to this document are the sole responsibility of the document sponsor.

ORDINANCE D-1810-06

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF CARMEL, INDIANA,
AMENDING CHAPTER 6, ARTICLE 5, DIVISION VIII, SECTIONS 6-161(b)(3)
AND 6-161(c)(1) OF THE CARMEL CITY CODE**

WHEREAS, numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing second hand smoke can cause diseases in healthy non-smokers; and

WHEREAS, a significant amount of second hand smoke exposure occurs in the workplace, with employees who work in smoke-filled businesses suffering an increased risk of heart attacks, as well as higher rates of death from cardiovascular disease and cancer, an increase in acute respiratory diseases and a measurable decrease in lung functions; and

WHEREAS, smoke-filled workplaces result in higher rates of worker absenteeism due to respiratory disease, as well as in lower employee productivity, increased health insurance rates and an increase in liability claims for diseases related to exposure to second hand smoke; and

WHEREAS, it is in the best interests of the health, safety and welfare of the City's residents and visitors to now prohibit smoking in those bars and taverns currently exempted from the City's no-smoking law; and

WHEREAS, Carmel Police Officers should be included amongst those City officials authorized and empowered to enforce the City's no-smoking law.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Carmel, Indiana, as follows:

Section 1: The foregoing Recitals are incorporated herein by this reference.

Section 2: Carmel City Code Chapter 6, Article 5, Division VIII, Section 6-161(b)(3), should be and the same is hereby amended to read as follows:

Sec. 6-161(b)(3):

"(3) The following establishments, areas and locations shall be exempt from the Smoking prohibitions set forth in Subsections (b)(i) and (ii) above, provided that no smoke from Smoking activities conducted therein or thereon enters any area or location in which Smoking is otherwise prohibited by this Section, to-wit:

- (a) Private residences, except when used as licensed child care or adult day care facilities or as Health Care Facilities.
- (b) Any vehicle used by an Employee while in the service of an Employer when the vehicle is occupied only by that Employee.

- 47 (c) Private vehicles when not being used in the service of an Employer
48
49 (d) Family-owned and operated businesses in which all Employees are related to the Business
50 owner by blood or marriage, and the offices of self-employed persons in which all
51 Employees are so related to the self-employed person, but only if no Enclosed Area in these
52 Businesses and offices in which Smoking is permitted is a Public Place.
53
54 (e) Hotel and motel rooms that are rented to guests and are designated as "smoking rooms,"
55 provided that not more than twenty percent (20%) of the rooms rented to guests in a hotel
56 or motel are designated as "smoking rooms."
57
58 (f) Retail Tobacco Stores.
59
60 (g) Private and semi-private rooms in nursing homes and long-term Health Care Facilities that
61 are occupied by one (1) or more persons, all of whom have requested in writing to be
62 placed in a room where smoking is permitted.
63
64 (h) Any Tobacco Bar.
65
66 (i) Any Business that:
67
68 (1) Is exempt from federal income taxation under 26 U.S.C. 501(c); and
69
70 (2) Is a "club" as that term is defined in I.C. 7.1-3-20-1, or a "fraternal club" as that term
71 is defined by I.C. 7.1-3-20-7; and
72
73 (3) Holds a beer, liquor and/or wine retailer's permit under the laws of Indiana; and
74
75 (4) Provides food or alcoholic beverages only to its *bona fide* members and their
76 guests."
77

78 Section 3: Carmel City Code Chapter 6, Article 5, Division VIII, Section 6-161(c)(1), should be
79 and the same is hereby amended to read as follows:
80

81 **Sec. 6-161(c)(1):**
82

83 "(1) This Section may be enforced by:
84

- 85 (1) The Director of the Department of Community Services and his designees
86
87 (2) The Fire Department Marshall and his designees
88
89 (3) The Police Chief and any sworn officer of the Carmel Police Department."
90

91 Section 4. The remaining provisions of City Code Section 6-161 are not affected by the above
92 amendments and remain in full force and effect according to their terms.
93

94 Ordinance No. D-1810-06
95 Page Two of Three Pages

Section 5. All prior City ordinances or parts thereof that are inconsistent with any provision of this Ordinance are hereby repealed as of the effective date of this Ordinance.

Section 6. If any portion of this Ordinance is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance so long as enforcement of same can be given the same effect.

PASSED by the Common Council of the City of Carmel, Indiana, this ____ day of _____ 2006, by a vote of _____ ayes and _____ nays.

COMMON COUNCIL FOR THE CITY OF CARMEL, INDIANA

Presiding Officer

Joseph C. Griffiths

Richard L. Sharp, President Pro Tempore

Kevin Kirby

Ronald E. Carter

Brian D. Mayo

Fredrick J. Glaser

Mark Rattermann

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

Presented by me to the Mayor of the City of Carmel, Indiana, this ____ day of _____
2006, at _____ O'clock, _____. M.

Diana L. Cordray, IAMC, Clerk-Treasurer

Approved by me, Mayor of the City of Carmel, Indiana, this ____ day of _____
2006, at _____ O'clock, _____. M.

James Brainard, Mayor

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

Ordinance D-1810-06
Page Three of Three Pages

ORDINANCE D-1811-06

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF
CARMEL, INDIANA, CONCERNING COUNCIL DISTRICT BOUNDARIES**

WHEREAS, the Common Council of the City of Carmel ("Council") has the authority to amend the Carmel City Code; and

WHEREAS, State Statute permits the Council to adopt an ordinance to divide the City of Carmel ("City") into five (5) Councilmanic districts in the year 2006 and that such Councilmanic districts are composed of contiguous territory, reasonably compact, and contain, as nearly as possible, equal population; and

WHEREAS, the Council desires to amend Chapter 3, Article 1, Division I, Section 3-3 of the City of Carmel, Indiana Code of Ordinances ("City Code") regarding redistricting of Councilmanic districts;

NOW, THEREFORE BE IT ORDAINED by the Council, as follows:

Section I. Chapter 3, Article 1, Division I, Section 3-3 of the City Code shall be replaced with language contained in this Ordinance.

Section II. Pursuant to I.C. 36-4-6-4, the Council consists of seven (7) members, two (2) of which are elected at large and five (5) of which are elected from single-member districts.

Section III. Two (2) members of the Council shall be elected from an electoral district that consists of all of the City and each voter of the City may vote for two (2) at-large candidates.

Section IV. The City is divided into five (5) single member districts, from each of which one member shall be elected by the voters in that district. The five (5) Councilmanic districts, numbered pursuant to authority granted the Council, shall contain precincts, the names and corresponding numbers of which are set forth in the Order adopted by the Hamilton County Board of Commissioners on November 28, 2005. The boundaries of each district are set forth below in numbered subsections (1) through (5).

(1). Councilmanic district Number One (1) consists of the following precincts: Arbors (37), Cheswick (62), Clay Center 1 (4), Clay Center 2 (57), Clay Center 3 (66), Clay Northwest (33), Pleasant Grove (partial) (19), Saddle Creek (63), Spring Farms (64), Springmill Ponds (52) and Thistlewood (46). Councilmanic district Number One (1) has a population total of Eleven Thousand One Hundred Forty Seven (11,147) persons based on the 2000 U.S. Federal Decennial Census ("Census") figures.

Councilor(s) Sharp, Glaser, Griffiths, Kirby, Mayo

(2). Councilmanic district Number Two (2) consists of the following precincts: Carmel Meadows (3), Dan Warren (8), Guilford (11), Hunters Creek (41), Lexington (43), Mt. Carmel 1 (17), Mt. Carmel 2 (44), Rangeline (20), Richland (21) and Stonehedge (32). Councilmanic district Number Two (2) has a population total of Ten Thousand Four Hundred Twelve (10,412) persons based on Census figures.

(3). Councilmanic district Number Three (3) consists of the following precincts: Brentwood (39), Brookshire 1 (2), Brookshire 2 (50), Brookshire North (34), Cool Creek North (7), Cool Creek South (26), Copperwood (53), Eden Brook 1 (9), Eden Brook 2 (30), Johnson Acres (29), Waterford (47), Woodgate (49). Councilmanic district Number Three (3) has a population total of Ten Thousand Six Hundred Ninety Six (10,696) persons based on Census figures.

(4). Councilmanic district Number Four (4) consists of the following precincts: Avian (35), Bay Hill (58), Brookfield Crossing (24), Cherry Tree (59), Clay Northeast (36), Hazel Dell (55), Kingswood 2 (51), Prairie View (65), Stonewick (60), White Chapel (23) and Woodfield (48). Councilmanic district Number Four (4) has a population total of Ten Thousand Six Hundred Fifty Three (10,653) persons based on Census figures.

(5). Councilmanic district Number Five (5) consists of the following precincts: Blue Creek (38), Briar Creek (1), Greensprings (10), Holaday 1 (12), Holaday 2 (40), Hunters Trace (13), Keystone (14), Kingswood 1 (42), Lakewood (27), Meridian (54), Mohawk Hills (16) and Woodland (25). Councilmanic district Number Five (5) has a population total of Ten Thousand three Hundred Ninety Three (10,393) persons based on Census figures.

Section V. Councilmanic districts are divided according to population figures set forth in Exhibit A to be retained with the permanent records of this Ordinance.

Section VI. The map or maps filed in connection with the submission of the re-districting plan adopted pursuant to Section IV of this Ordinance shall be referred to as the Carmel City Council Districts - 2007, Council District Map Prepared For The Carmel City Council By The Carmel GIS Department, Revised May 16, 2006, marked Exhibit B and attached hereto.

Section VII.

a. Any discrepancies or conflicts between the geographic boundaries of the precincts and the boundaries of the Census voting districts and any omission or duplicate assignment of any territory shall be resolved by reference to Clay Township Precinct Map, January 18, 2006, as prepared for the Hamilton County Clerk by the Hamilton County Surveyor or to the rules of construction stated in this Ordinance.

b. The districts in Section IV of this Ordinance shall be construed so as to include all of the territory of the City within one (1), but only one (1), of the districts established by this Ordinance.

c. Section IV of this Ordinance shall be construed so as to exclude from all districts any territory not located in the City.

d. Any territory in the City which is omitted from a district shall be deemed to be included either (i) in the district that surrounds it if there be one or, (ii) if contiguous to two (2) or more districts, in the contiguous district that otherwise has the lowest total population.

e. Any territory which is included in more than one (1) district shall be deemed included only in either (i) the district whose boundaries surround it, or (ii) in the contiguous district which otherwise has the lowest total population.

Section VIII. The Council reserves the right to amend or revise the descriptions of the district set forth in Section IV of this Ordinance to correct any errors, duplications or omissions in the descriptions, to conform to any corrections or revisions of the Census data hereafter made by the U.S. Bureau of Census, to comply with any valid court order respecting this Ordinance, or for any other lawful purpose.

Section IX. All prior ordinances, or parts thereof, inconsistent with any provision of this Ordinance are hereby repealed.

Section X. This Ordinance shall be in full force and effect after its passage and signing by the Mayor for the primary, general, and any other special Councilmanic elections to be held in the year 2007 for Councilmanic officeholders taking office in 2008, and until such time as the Council adopts a subsequent ordinance concerning Council district boundaries for redistricting purposes.

PASSED by the Common Council of the City of Carmel, Carmel, Indiana, this ____ day of _____, 2006, by a vote of ____ ayes and ____ nays.

COMMON COUNCIL OF THE CITY OF CARMEL

Presiding Officer

Joseph C. Griffiths

Richard L. Sharp, President Pro Tempore

Kevin Kirby

Ronald E. Carter

Brian D. Mayo

Fredrick J. Glaser

Mark Rattermann

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

Presented to me by the Mayor of the City of Carmel, Indiana, this _____ day of _____, 2006, at _____ .M.

Diana L. Cordray, IAMC, Clerk-Treasurer

Approved by me, Mayor of the City of Carmel, Indiana, this _____ day of _____, 2006, at _____ .M.

James Brainard, Mayor

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

Prepared By: Council President, Richard L. Sharp
One Civic Square
Carmel, Indiana 46032

EXHIBIT "A"

Carmel City Council Districts

Population counts based on year 2000 U.S. Federal Decennial Census Figures

Council District 1

Total Population = 11,147

<u>Precinct</u>	<u>Population</u>
Arbors #37	1348
Cheswick #62	1305
Clay Center 1 #4	1104
Clay Center 2 #57	1190
Clay Center 3 #66	608
Clay Northwest #33	640
Pleasant Grove #19 (partial)	700
Saddle Creek #63	347
Spring Farms #64	1295
Springmill Ponds #52	1452
Thistlewood #46	1158

Council District 2

Total Population = 10,412

<u>Precinct</u>	<u>Population</u>
Carmel Meadows #3	668
Dan Warren #8	1096
Guilford #11	1546
Hunters Creek #41	911
Lexington #43	636
Mt. Carmel 1 #17	617
Mt Carmel 2 #44	923
Rangeline #20	1507
Richland #21	972
Stonehedge #32	1536

Council District 3

Total Population = 10,696

<u>Precinct</u>	<u>Population</u>
Brentwood #39	1612
Brookshire 1 #2	458
Brookshire 2 #50	748
Brookshire North #34	767
Cool Creek North #7	1335
Cool Creek South #26	744
Copperwood #53	642

Council District 3 (continued)

<u>Precinct</u>	<u>Population</u>
Eden Brook 1 #9	910
Eden Book 2 #30	494
Johnson Acres #29	725
Waterford #47	582
Woodgate #49	1679

Council District 4

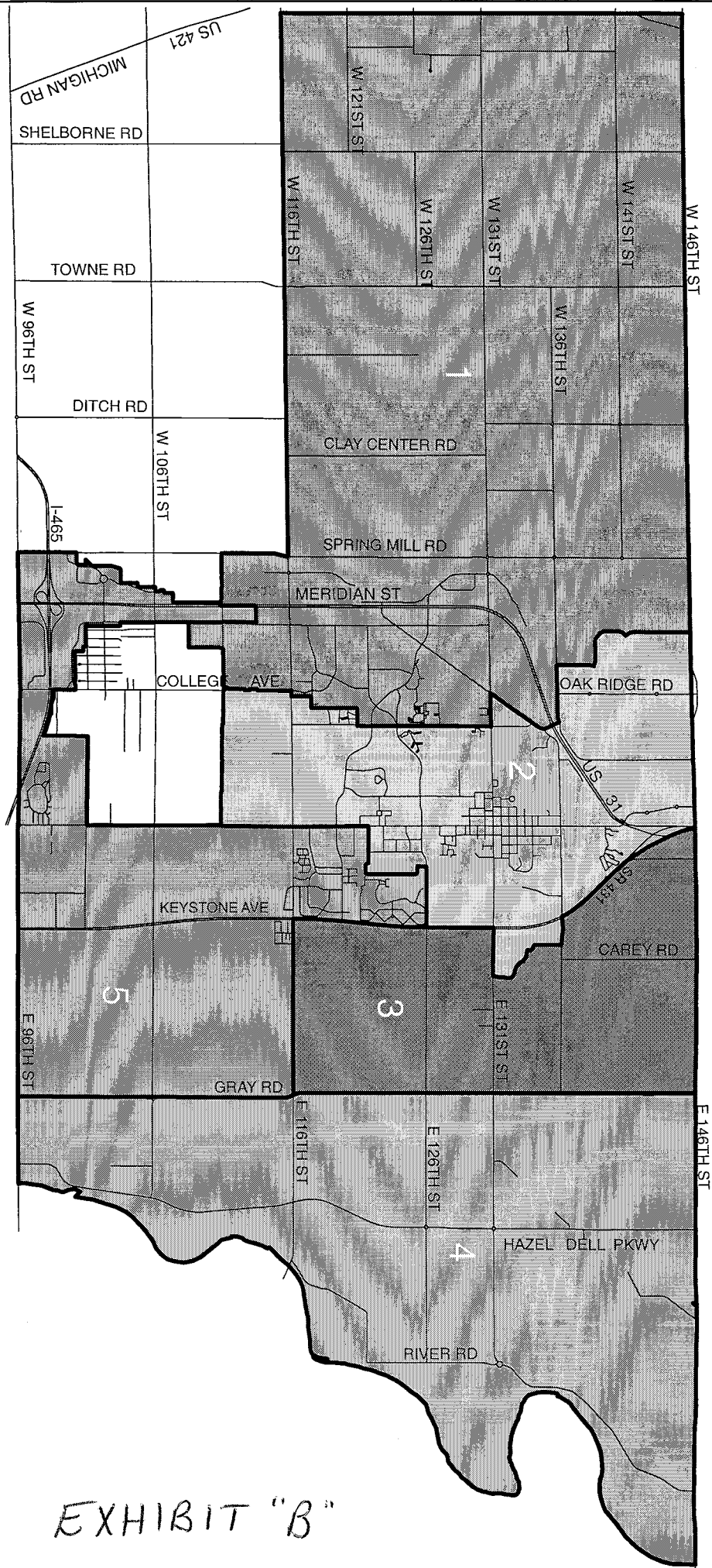
Total Population = 10,653

<u>Precinct</u>	<u>Population</u>
Avian #35	1583
Bay Hill #58	812
Brookfield Crossing #24	988
Cherry Tree #59	835
Clay Northeast #36	293
Hazel Dell #55	1323
Kingswood 2 #51	1540
Prairie View #65	560
Stonewick #60	1501
White Chapel #23	466
Woodfield #48	752

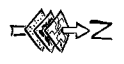
Council District #5

Total Population 10,393

<u>Precinct</u>	<u>Population</u>
Blue Creek #38	1277
Briar Creek #1	969
Greensprings #10	523
Holaday 1 #12	900
Holaday 2 #40	686
Hunters Trace #13	1263
Keystone #14	962
Kingswood 1 #42	722
Lakewood #27	871
Meridian #54	438
Mohawk Hills #16	1309
Woodland #25	473



2006 PROPOSED CARMEL CITY COUNCIL DISTRICTS



- District 1
- District 2
- District 3
- District 4
- District 5
- Streets

EXHIBIT "B"

ORDINANCE Z-489-06

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF CARMEL,
INDIANA, REZONING DISTRICT CLASSIFICATION**

Rezoning the property located southwest of the intersection of Main Street and Old Meridian Street from Old Meridian/Special Use (OM/SU) and Old Meridian/Single Family Attached (OM/SFA) to the Old Meridian/Mixed Use (OM/MU) Classification.

WHEREAS, pursuant to Indiana Code 36-7-4, the Common Council has lawfully adopted a zoning ordinance, the terms of which are applicable to the geographic area consisting of the incorporated area of the City of Carmel, Indiana, and the unincorporated area of Clay Township, Hamilton County, Indiana, which zoning ordinance has been modified in Chapter 10 of the Carmel City Code; and

WHEREAS, pursuant to Indiana Code 36-7-5-602 the Common Council is authorized to amend the map that is part of the zoning ordinance; and

WHEREAS, the Carmel/Clay Plan Commission has favorably recommended the rezoning of the Real Estate, the legal description of which is attached hereto and incorporated herein by reference as Exhibit A (hereafter, the "Real Estate");

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Carmel, Indiana, as follows:

Section 1. That the Official Zoning Map accompanying and made part of the Zoning Ordinance is hereby changed to designate the Real Estate from Old Meridian/Special Use (OM/SU) and Old Meridian/Single Family Attached (OM/SFA) to Old Meridian/Mixed Use (OM/MU).

Section 2. All prior Ordinances or parts thereof inconsistent with any provision of this Ordinance are hereby repealed.

Section 3. This Ordinance shall be in full force and effect from the and after its passage and signing by the Mayor.

Ordinance No. Z-489-06 **PASSED** by the Common Council of the City of Carmel, Indiana this _____ day of _____, 2006, by a vote of _____ ayes and _____ nays.

1 **COMMON COUNCIL FOR THE CITY OF CARMEL**

2
3
4 _____
5 Presiding Officer

_____ Joseph C. Griffiths

6
7 Richard L. Sharp, President Pro Tempore

_____ Kevin Kirby

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10 Ronald E. Carter

_____ Brian D. Mayo

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13 Fredrick J. Glaser

_____ Mark Rattermann

14
15 ATTEST:

16
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18 _____
19 Diana L. Cordray, IAMC, Clerk Treasurer

20
21
22 Presented by me to the Mayor of the City of Carmel, Indiana the ____ day of
23 _____, 2006, at _____ o'clock ____M.

24
25
26
27 _____
28 Diana L. Cordray, IAMC, Clerk Treasurer

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30
31 Approved by me, Mayor of the City of Carmel, Indiana, this _____ day of
32 _____, 2006, at _____ o'clock ____M.

33
34
35 _____
36 James Brainard, Mayor

37 ATTEST:

38
39
40 _____
41 Diana L. Cordray, IAMC, Clerk Treasurer

42
43 This Instrument prepared by: Lawrence J. Kemper
44 NELSON & FRANKENBERGER
45 3105 East 98th Street, Suite 170
46 Indianapolis, IN 46280

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EXHIBIT "A"

A part of the Southeast Quarter of Section 26, Township 18 North, Range 3 East, Clay Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said Quarter Section; thence South 89 degrees 08 minutes 21 seconds West along the North line of said Quarter Section a distance of 1036.75 feet to the Northwest corner of the real estate described in Instrument No. 1997-32968 in the Office of the Recorder of Hamilton County, Indiana; thence South 00 degrees 18 minutes 29 seconds East along the West line of said real estate 279.88 feet to the POINT OF BEGINNING of this description; thence North 89 degrees 08 minutes 21 seconds East parallel with the aforesaid North line 816.39 feet to the centerline of Old Meridian (formerly U.S. Highway 31); thence South 35 degrees 39 minutes 16 seconds West along said centerline 165.27 feet to a point South 35 degrees 39 minutes 16 seconds West 513.50 feet from the intersection of the centerline of Old Meridian and the North line of said Quarter Section; thence South 88 degrees 50 minutes 36 seconds West 374.71 feet; thence South 35 degrees 39 minutes 16 seconds West parallel with the centerline of Old Meridian Street 586.85 feet; thence North 00 degrees 18 minutes 29 seconds West 606.44 feet to the place of beginning, containing 4.231 acres, more or less.

AND

A part of the North Half of the Southeast Quarter of Section 26, Township 18 North, Range 3 East, Clay Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said Quarter Section; thence South 89 degrees 08 minutes 21 seconds West along the North line of said Quarter Section a distance of 879.25 feet and the POINT OF BEGINNING of this description; thence South 00 degrees 18 minutes 29 seconds East 279.88 feet the Northeast corner of real estate described in Instrument Number 1996-26849 (Parcel I) in the Office of the Recorder, Hamilton County, Indiana; thence South 89 degrees 08 minutes 21 seconds West along said North line 157.50 feet; thence North 00 degrees 18 minutes 29 seconds West 279.88 feet to a point on the North line of said Quarter Section; thence North 89 degrees 08 minutes 21 seconds East along said North line 157.50 feet to the place of beginning, containing 1.012 acres, more or less.

AND

Part of the Southeast Quarter of Section 26, Township 18 North, Range 3 East, in Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said Quarter Section; thence South 89 degrees 08 minutes 21 seconds West along the North line of said Quarter Section a distance of 675.75 feet and the POINT OF BEGINNING of this description; thence South 00 degrees 18 minutes 29 seconds East 279.88 feet to the North line of real estate described in Instrument Number 1996-26854 in the Office of the Recorder, Hamilton County, Indiana; thence South 89 degrees 08 minutes 21 seconds West along said North line 203.50 feet to the Northwest corner of said real estate; thence North 00 degrees 18 minutes 29 seconds West 279.88 feet to a point on the North line of said Quarter Section; thence North 89 degrees 08 minutes 21 seconds East along said North line 203.50 feet to the place of beginning, containing 1.307 acres, more or less.

OLD MERIDIAN PLACE

CENTEX HOMES CHANGE IN ZONING CLASSIFICATION

Ordinance No. Z-489-06

**City of Carmel
Common Council – April 17, 2006**

Petitioner: Centex Homes
c/o Sean Sullivan – 806-2924
Jonathan Isaacs – 806-1766

Attorneys: Lawrence J. Kemper and James E. Shinaver
NELSON & FRANKENBERGER
3105 East 98th Street, Suite 170
Indianapolis, IN 46280
Telephone: (317) 844-0106

Engineer: Stoeppelwerth & Associates
c/o Dennis Olmstead and
Ed Fleming - 849-5935

EXPLANATION

Centex Homes ("Centex") is the contract purchaser of approximately 25.5 acres located near the southwest corner of the intersection of 131st Street and Old Meridian Street. The 25.5 acres are outlined on the aerial photograph enclosed under Tab 2. The real estate is currently zoned Old Meridian/Mixed Use (OM/MU), Old Meridian/Single Family Attached (OM/SFA), and Old Meridian/Special Use (OM/SU).

Centex is desirous of developing the real estate for a mix of uses, including townhomes, condominiums, apartments over retail, and two-story buildings with offices over retail. Centex has pending before the Plan Commission its development plan and architectural design, landscaping, lighting and signage in connection with the real estate. In order to develop the real estate as proposed, Centex must rezone a 6.5 acre portion of the real estate from Old Meridian/Single Family Attached (OM/SFA), and Old Meridian/Special Use (OM/SU) to Old Meridian/Mixed Use (OM/MU). This rezone is necessary in order to permit some of the condominium and mixed use buildings proposed.

Included under Tab 5 of the informational brochure is a map showing the current zoning of the real estate, and a second map showing the proposed rezoning of a portion of the real estate to OM/MU. Tab 6 of the brochure illustrates the conceptual site plan for the real estate, while Tab 7 shows the conceptual site plan in relation to the rezone request. The conceptual site plan shown under the first page of Tab 8 contains numbered buildings which correspond with numbered elevations also shown under Tab 8. Also included under Tab 9 of the brochure is a representative sample of elevations for the townhome portion of the site. Centex's overall development plan would permit (i) 143 townhome units, (ii) 100 condominium units over parking and (iii) additional residential units over retail or office space.

Centex's proposal for the site provides a mixture of office/retail and residential which furthers the objectives of Carmel's urban design initiative for the Old Meridian corridor. In addition, Centex's plan provides a seamless transition between the commercial areas planned for the Old Meridian corridor and residential uses further to the west.

We look forward to presenting this request to the Common Council at its meeting on April 17, 2006.

Respectfully submitted,



Lawrence J. Kemper

Old Meridian



— Roads & Streets
■ Old Meridian Place

CENTEX HOMES

ORDINANCE Z-492-06

**AN ORDINANCE OF THE COMMON COUNCIL OF THE
CITY OF CARMEL, INDIANA
ESTABLISHING THE
VILLAGE GREEN
PLANNED UNIT DEVELOPMENT DISTRICT**

WHEREAS, Section 31.6.4 of the Carmel/Clay Zoning Ordinance Z-289 (the “Carmel/Clay Zoning Ordinance”), provides for the establishment of a Planned Unit Development District in accordance with the requirements of I.C. § 36-7-4-1500 et seq.;

WHEREAS, the Carmel/Clay Plan Commission (the “Commission”) has given a positive recommendation to the ordinance set forth herein (the “Village Green”) which establishes the Village Green Unit Development District (the “District”).

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Carmel, Indiana (the “Council”), that (i) pursuant to IC §36-7-4-1500 et seq., it adopts this Village Green Ordinance, as an amendment to the Carmel/Clay Zoning Ordinance and it shall be in full force and effect from and after its passage, (ii) all prior commitments shall be null and void and replaced and superseded by this Village Green Ordinance, and (iii) this Village Green Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Section 1 Applicability of Ordinance

Section 1.1 The Official Zoning Map of the City of Carmel and Clay Township, a part of the Carmel/Clay Zoning Ordinance, is hereby changed to designate the land described in Exhibit “A” (the “Real Estate”), as a Planned Unit Development District to be known as the Village Green.

Section 1.2 Development in the District shall be governed entirely by (i) the provisions of this Village Green Ordinance and its exhibits, and (ii) those provisions of the Carmel/Clay Zoning Ordinance specifically referenced in this Village Green Ordinance. In the event of a conflict between this Village Green Ordinance and the Carmel/Clay Zoning Ordinance or the Sign Ordinance, the provisions of this Village Green Ordinance shall apply.

Section 1.3 Any capitalized term not defined herein shall have the meaning as set forth in the Carmel/Clay Zoning Ordinance in effect on the date of the enactment of this Village Green Ordinance.

Section 2 Permitted Uses . Permitted uses are townhomes, condominiums and/or multi-family dwelling units.

Section 3 Accessory Buildings and Uses. All Accessory Structures and Accessory Uses shall be permitted except that any detached accessory building shown in any development plan shall have

on all sides the same architectural features or shall be architecturally compatible with the principal building(s) with which it is associated.

Section 4 **Communication Equipment.** Cell towers shall not be permitted. Home satellite dishes shall be permitted.

Section 5 **Platting.** The platting of the Real Estate into smaller tracts shall be permitted, so long as the proposed plat complies with the area requirements set forth below in Section 6, and the creation of a new property line within the Real Estate shall not impose or establish new development standards beyond those specified below in Section 6 for the entirety of the Real Estate. However, the development of any parcel shall conform to the requirements of Section 13 below, and all other applicable requirements contained in this Village Green Ordinance.

Section 6 **Height and Area Requirements**

Section 6.1 **Maximum Building Height:** The maximum Building Height is forty-five (45) feet.

Section 6.2 **Minimum Building Set Back:** The minimum Set Back from the perimeter boundary line of the Real Estate contiguous with 136th Street shall be fifteen (15) feet, and along the north property line of the Real Estate the minimum Set Back shall be ten (10) feet, along the west property line of the Real Estate the minimum Set Back shall be ten (10) feet, and along the east property line of the Real Estate the minimum Set Back shall be ten (10) feet.

Section 6.3 **Minimum Building Separation.** The minimum building distance between Buildings, measured from the exterior face of the foundation, shall be ten (10) feet.

Section 6.4 **Density.** There shall be a maximum of forty eight (48) units on approximately 9 acres.

Section 6.5 **Square Footage of Townhome Units.** The minimum square footage for an individual Townhome unit shall be one thousand eight hundred (1,800) square feet, exclusive of any garages.

Section 7. **Building Types**

Section 7.1 **Architectural Design Requirements:**

- A. **Roof design:** All roofs, except for open porch roofs, shall have a minimum slope of 12 horizontal to 7 vertical.
- B. **Building rendering and elevations:** Attached hereto and incorporated herein by reference as Exhibit "B" are building renderings of the Buildings to be constructed upon the Real Estate. All Buildings to be constructed upon the Real Estate shall include Masonry on seventy percent (70%) of the front building elevation as the primary building material, excluding but not limited to doors, soffits, trim, windows, gables and roofs. Secondary building materials for the front elevations and the

primary building material for all side and rear elevations for all Buildings to be constructed upon the Real Estate shall include, but not be limited to, Hardi-Plank and/or Hardi-Board or the equivalent thereof, excluding but not limited to doors, soffits, trim, windows, gables and roofs.

Section 8 Landscaping. Attached hereto and incorporated herein by reference as Exhibit “C” is the landscape plan (hereafter “Landscape Plan”).

Section 8.1 Planting Standards. Landscaping shall be integrated with other functional and ornamental site design elements, where appropriate, such as hardscape materials, paths, sidewalks, or any water features. Deciduous trees planted to satisfy the landscaping requirements of this Village Green Ordinance shall have at least a two and one-half inch (2-1/2”) Caliper and seven foot (7’) height at the time of planting, unless otherwise specified herein or otherwise indicated on the Landscape Plan. Evergreen trees shall be a minimum of six feet (6’) in height at the time of planting. Shrubs shall be two (2) feet in height at the time of planting. All trees, shrubs and ground covers shall be planted according to accepted horticultural standards. Landscaping materials shall be appropriate to local growing and climatic conditions. Plant suitability, maintenance and compatibility with site construction features are critical factors that should be considered. Plantings should be designed with repetition, structured patterns, and complementary textures and colors, and should reinforce the overall character of the area.

Section 8.2 Maintenance. It shall be the responsibility of the owners and their agents to insure proper maintenance of project landscaping approved in accordance with this Village Green Ordinance. This is to include, but is not limited to, irrigation and mulching of planting areas, replacing dead, diseased, or overgrown plantings with identical varieties or a suitable substitute, and keeping the area free of refuse, debris, rank vegetation and weeds.

Section 8.3 Building Base Landscaping. The building base landscaping around the buildings shall include a minimum of twelve (12) shrubs. Additionally, there shall be a minimum of two (2) shade trees per unit between the unit and the sidewalk, if the necessary area for planting is available. If a shade tree can not be planted between the unit and the sidewalk, that shade tree will be planted at an alternate location on the site.

Section 8.4 Perimeter Planting/Buffer Yard. The perimeter planting and buffer yard planting shall be in accordance with Section 26.04 Perimeter Buffering Requirements of the Zoning Ordinance.

Section 8.5 Interior Plantings. Adjacent to the entry drive of the development, for each one hundred (100) linear foot increment, there shall be a minimum of three (3) shade trees, two (2) ornamental trees and ten (10) shrubs. For any common areas adjacent to a parking area, plantings shall be in accordance with Section 26.04 Perimeter Buffering Requirements of the Zoning Ordinance.

Section 8.6 Tree Conservation. Existing trees as identified on the Landscape Plan as “Tree Conservation Area” shall not be removed from the Real Estate except as follows:

1. As is necessary to clear underbrush and dead trees;

- 1
2 2. As is necessary for the installation of access easements, rights-of-way, streets, paths,
3 sidewalks, and utilities and drainage improvements and infrastructure; and
4
5 3. As necessary for public health and safety, as determined with the cooperation of the
6 City of Carmel's Urban Forrester.
7

8 **Section 9** **Lighting Requirements**
9

- 10 A. Front of Townhome lighting: Each Townhome shall have one (1) light fixture near
11 the door.
12
13 B. Rear of Townhome lighting: Each Townhome shall have a minimum of one (1) light
14 fixture on the rear of each unit, however the light position(s) shall be consistent
15 among all units.
16
17 C. Street Lighting: Street lighting shall be provided near intersections of streets and
18 alleyways and along the Monon Trail and 136th Street.
19
20 D. Light Fixture Renderings: Attached to Exhibit "C" and referred to herein as the Wall
21 Mounted Luminaries and Pole Mounted Luminaries are renderings which depict the
22 acceptable types of wall and pole mounted luminaries for the District.
23

24 **Section 10** **Signs and Entry Way Wall**
25

26 Section 10.1. Ground Signs and Entry Wall.
27

- 28 A. Type: At each entrance to the development, adjacent 136th Street, Two (2)
29 Ground/Entryway Signs shall be permitted, as is depicted on Exhibit "C", which is
30 attached hereto and incorporated herein by reference.
31
32 B. Maximum Sign Area: Twenty-four (24) square feet each.
33
34 C. Illumination of Sign: External.
35
36 D. Sign Permit: Required.
37
38 E. Fees: Required.
39

40 **Section 11** **Parking**
41

42 Section 11.1 Minimum Parking: Each Townhome shall contain a two (2) car garage and,
43 in addition, there shall be guest parking provided within on-street parking spaces and other
44 spaces to be provided on the site, as depicted on the Site Plan and incorporated herein by
45 reference as Exhibit "D".
46
47
48

1 **Section 12 Homeowners Association and Declaration of Covenants**

2
3 Section 12.1 Declaration of Covenants and Homeowners Association: The Developer
4 shall prepare and record a Declaration of Covenants which shall also contain various
5 provisions regarding the Real Estate as determined by the Developer, including, without
6 limitation, provisions for mandatory assessments and maintenance of common areas. The
7 Declaration of Covenants will also provide for the establishment of a Homeowners
8 Association in which membership shall be mandatory.
9

10 **Section 13. Approval Process**

11
12 Section 13.1. Approval or Denial of the Primary Plat/Development Plan.

- 13
14 A. Exhibit “D”, which is attached hereto and incorporated herein by reference, shall
15 serve as the Site Plan (the “SP”). The SP does constitute the approved Development
16 Plan and primary plat for the Real Estate, and it does constitute the approved
17 architecture, design, lighting and landscaping for the Real Estate and the
18 improvements thereon, considered in connection with the Village Green Ordinance.
19 Village Green shall not require further (i) ADLS approval and (ii) Development
20 Plan/primary plat approval. The Final Development Plan approval procedures are
21 set forth below in this Section 13. If there is a Substantial Alteration in the approved
22 ADLS and Development Plan/primary plat, review and approval of the amended
23 plans shall be made by the Commission, or a Committee thereof, pursuant to the
24 Commission’s rules of procedure. Minor Alterations may be approved by the
25 Director.
26
27 B. The Director shall have the sole and exclusive authority to approve without
28 conditions, approve with conditions, or disapprove the Final Development
29 Plans/Secondary Plats (collectively, the “FDP”) for the Village Green; provided,
30 however, that the Director shall not unreasonably withhold or delay the Director’s
31 approval of the FDP that is in substantial conformance with the SP and is in
32 conformance with the Development Requirements and Development Standards of
33 this Village Green Ordinance. If the Director disapproves any FDP, the Director
34 shall set forth in writing the basis for the disapproval and schedule the request for
35 approval of the FDP for a hearing before the full Plan Commission.
36
37 C. An amendment to the FDP, which is not determined by the Director to be a
38 Substantial Alternation or Material Alteration from the approved SP, may be
39 reviewed and approved solely by the Director. However, in the event the Director
40 determines that there has been a Substantial Alteration or Material Alteration
41 between the approved SP and any proposed FDP, the Director may, at the Director’s
42 discretion, refer the amended FDP to the Commission, or a Committee thereof, for
43 review and approval by the Commission and/or a Committee thereof.
44
45 D. The FDP shall be a specific plan for the development of all or a portion of the Real
46 Estate that is submitted for approval to the Director, which shall include reasonable
47 detail regarding the facility and structures to be constructed, as well as drainage,
48 erosion control, utilities, and building information.

1
2 **Section 14 Definitions and Rules of Construction**
3

4 Section 14.1 General Rules of Construction. The following general rules of construction
5 and definitions shall apply to the regulations of this Ordinance:
6

- 7 A. The singular number includes the plural and the plural the singular, unless the
8 context clearly indicates the contrary.
9
10 B. Words used in the present tense include the past and future tenses, and the future the
11 present.
12
13 C. The word “shall” is a mandatory requirement. The word “may” is a permissive
14 requirement. The word “should” is a preferred requirement.
15

16 Section 14.2 Definitions
17

- 18 A. Accessory Structure: A structure subordinate to a building or use located on the Real
19 Estate which is not used for permanent human occupancy.
20
21 B. Accessory Use: A use subordinate to the main use, located on the Real Estate or in
22 the same building as the main use, and incidental to the main use.
23
24 C. Building Height: The vertical distance from the lot ground level to the highest point
25 of the roof for a flat roof, to the deck line of a mansurd roof and the mean height
26 between eaves and ridges for gable, hip and gambrel roofs.
27
28 D. City: The City of Carmel, Indiana.
29
30 E. Commission: The Carmel/Clay Plan Commission.
31
32 F. Council: The City Council of the City of Carmel, Indiana.
33
34 G. County: Hamilton County, Indiana.
35
36 H. Declaration of Covenants: A Declaration of Covenants, Conditions and Restrictions
37 for the Real Estate which shall be recorded in the office of the Recorder of Hamilton
38 County, Indiana, and which may, from time to time, be amended.
39
40 I. Plan, Site. A general plan for the development of the Real Estate, abbreviated as
41 “SP” that is submitted for approval showing proposed facilities, buildings, and
42 structures. This plan generally shows landscape areas, parking areas, site access,
43 drainage features, and building locations and is depicted on Exhibit “D”, which is
44 attached hereto and incorporated herein by reference.
45
46 J. Development Plan, Final. A specific plan for the development of the Real Estate
47 abbreviated as “FDP” Estate that is submitted for approval showing proposed
48 facilities, buildings, and structures. This plan review includes general landscaping,

1 parking, drainage, erosion control, signage, lighting, screening and building
2 information for the site.

3
4 K. Development Requirements. Development standards and any requirements specified
5 in this Village Green Ordinance which must be satisfied in connection with the
6 approval of a Final Development Plan.

7
8 L. Developer. Bay Development Corporation, Drees Premiere Homes, Inc. and its
9 successors and assigns.

10
11 M. Director: Director, or Administrator, of the Department of Community Services for
12 the City of Carmel, Indiana. "Director" and "Administrator" shall include his/her
13 authorized representatives.

14
15 N. Homeowners Association: A nonprofit corporation established for the promotion of
16 the health, safety and welfare of the residents of the Village Green, and to manage,
17 maintain, and repair the common areas within the Real Estate and any improvements
18 located thereon.

19
20 O. Masonry: Masonry shall include brick, stone and/or stucco.

21
22 P. Material Alteration: Any change to an approved plan of any type that involves the
23 substitution of one material, species, element, etc. for another.

24
25 Q. Minor Alteration: Any change to an approved plan of any type that involves the
26 revision of less than ten percent (10%) of the plan's total area or approved materials.

27
28 R. Parcel Coverage: The total ground area, within the Real Estate, covered by buildings
29 and accessory structures which are greater than eighteen (18) inches above grade
30 level, excluding fences and walls not attached in any way to a roof, divided by the
31 total horizontal area within the Real Estate boundaries.

32
33 S. Real Estate. The Real Estate shall mean and refer to all of the Real Estate described
34 in Exhibit "A".

35
36 T. Right-of-Way: An area of land permanently dedicated to provide light, air and
37 access.

38
39 U. Set Back: The least measured distance between a building or structure, excluding,
40 however, porches, porch or building steps and patios, and the perimeter boundary of
41 the Real Estate. For purposes of determining Set Back, the perimeter boundary of
42 the Real Estate (i) shall always mean and refer to the outside perimeter boundary line
43 of the Real Estate and (ii) shall not be changed or reduced by reason of the platting
44 or subdivision of the Real Estate into smaller parcels.

45
46 V. Sign: Any type of sign as further defined and regulated by this Ordinance and the
47 Sign Ordinance for Carmel-Clay Township, Ordinance Z-196, as amended.
48

- 1 W. Substantial Alteration: Any change to an approved plan of any type that involves the
2 revision of ten percent (10%) or more of the plan's total area or approved materials.
3
4 X. Townhome: An attached dwelling intended for occupancy by a single family.
5
6 Y. Townhome Building: A structure containing attached dwellings.
7
8 Z. Trim: Soffits, architraves, wood reveals, and casement around doors and windows.
9

10 **Section 15. Violations.** All violations of this Village Green Ordinance shall be subject to Section
11 34.0 of the Carmel/Clay Zoning Ordinance.
12
13
14

15 PASSED by the Common Council of the City of Carmel, Indiana this _____ day of
16 _____, 2006, by a vote of _____ ayes and _____ nays.
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COMMON COUNCIL FOR THE CITY OF CARMEL

Presiding Officer

Joseph C. Griffiths

Richard L. Sharp, President

Kevin Kirby

Ronald E. Carter

Brian D. Mayo

Fredrick J. Glaser

Mark Rattermann

ATTEST:

Diana L. Cordray, IAMC, Clerk Treasurer

Presented by me to the Mayor of the City of Carmel, Indiana the ____ day of
_____, 2006, at _____ o'clock ____M.

Diana L. Cordray, IAMC, Clerk Treasurer

Approved by me, Mayor of the City of Carmel, Indiana, this _____ day of
_____, 2006, at _____ o'clock ____M.

James Brainard, Mayor

ATTEST:

Diana L. Cordray, IAMC, Clerk Treasurer

This Instrument prepared by: James E. Shinaver
NELSON & FRANKENBERGER
3021 East 98th Street, Suite 220
Indianapolis, IN 46280

EXHIBIT A

Legal Description

A part of the east half of the northeast quarter of section twenty-five (25) Township eighteen (18) North, Range three (3) East, described as follows:

BEGIN at the northwest corner of the east half of the northeast quarter of said section 25, run south on the west line of said east half 847 feet to a stone marked T, thence east on line parallel with the north line of said quarter section 468.93 feet to the west right-of-way line of the Louisville, New Albany and Chicago Railroad (Monon); thence northwesterly along said right-of-way line 847.3 feet to the intersection of the north line of said quarter section; thence west along the north line of said quarter section 456.8 feet to the place of beginning.

Containing 9.00 acres more or less in Clay Township of Hamilton County, Indiana.





EXHIBIT
8
1 of 2



EXHIBIT
B
242

ORDINANCE D-1808-06

**AN ORDINANCE OF THE COMMON COUNCIL
OF THE CITY OF CARMEL, INDIANA
VACATING A PORTION OF A PUBLIC RIGHT-OF-WAY**

WHEREAS, John N. Kirk, Jr. and Lowell T. Kirk, (collectively referred to herein as "Petitioner"), has submitted a petition to the City of Carmel, Indiana, pursuant to Indiana Code §36-7-3-12(b) requesting the vacation of a portion of a public way commonly known as Old Meridian Street, which is located entirely within the corporate boundaries of the City of Carmel, Indiana (the "Proposed Ordinance"); and,

WHEREAS, in the manner prescribed by Indiana Code §36-7-3-12-(c), the Clerk-Treasurer of the City of Carmel, Indiana, gave notice of the Proposed Ordinance and of the time and place of the public hearing on the Proposed Ordinance; and

WHEREAS, a public hearing on the Proposed Ordinance was held by the Common Council of the City of Carmel, Indiana (the "Council"), the ____ day of _____, 200__, and following the presentation of evidence at said hearing, the Council now finds as follows:

- (a) Petitioner has entered into a contract with DS Development, LLC, predecessor to Pinnacle Pointe, LLC, ("Pinnacle"), for the sale and development of Petitioner's real estate located adjacent to the public right-of-way and has submitted its petition for the vacation of a portion of the public right-of-way.
 - (b) The vacation of the portion of the right-of-way of Old Meridian Street, which is more particularly described and depicted in Exhibit "A" attached hereto and made a part hereof, will allow Pinnacle to develop and construct a 19,250 square foot medical office building on the Kirk parcel adjacent to Old Meridian Street in accordance with the Development Plan approved by the Carmel Plan Commission under Docket No. 05120018DP/ADLS.
 - (c) The Petitioner is the sole owner of the real estate abutting the public right-of-way to be vacated.
- Petitioner's real estate adjoining the portion of the right-of-way to be vacated is more particularly depicted and described in Exhibit "B".

1 (d) The City of Carmel Board of Public Works and Safety recommended approval of the
2 petition to vacate the portion of the public right-of-way of Old Meridian Street on
3 May 17, 2006.

4 (e) No evidence of probative value was presented at the public hearing held regarding
5 this proposed vacation that was in opposition to same.

6 (f) It has been demonstrated by a preponderance of the evidence that the vacation of this
7 right-of-way is in the best interests of the public.

8 (g) The portion of the public right-of-way with respect to Old Meridian Street, as
9 identified hereinabove, should be vacated.

10 NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Carmel,
11 Indiana, as follows:

12 1. Pursuant to Indiana Code §36-7-3-12, the portion of the right-of-way of Old
13 Meridian Street, as located in Carmel, Indiana and more particularly
14 described in Exhibit "A" of this Ordinance, is hereby vacated as public right-
15 of-way and title to such vacated right-of-way hereby reverts to, and is vested
16 in, the Petitioner, its grantees, successors and assigns of the real estate
17 abutting said vacated public right-of-way.

18 2. This Ordinance shall be in full force and effect from and after the date of its
19 passage and the signing by the Mayor.

20
21 PASSED by the Common Council of the City of Carmel, Indiana, this ____ day of
22 _____, 2006, by a vote of ____ ayes and _____ nays.

1 **COMMON COUNCIL FOR THE CITY OF CARMEL**

2 _____
3 James Brainard, Presiding Officer

_____ Joseph C. Griffiths

4
5 _____
6 Richard L. Sharp, President Pro Tempore

_____ Kevin Kirby

7
8 _____
9 Ronald E. Carter

_____ Brian D. Mayo

10
11 _____
12 Frederick J. Glaser

_____ Mark Rattermann

13
14 ATTEST:

15
16 _____
17 Diana L. Cordray, IAMC, Clerk-Treasurer

18
19 Presented by me to the Mayor of the City of Carmel, Indiana, this ____ day of _____,
20 2006 at _____.m.

21
22 _____
23 Diana L. Cordray, IAMC, Clerk-Treasurer

24
25 Approved by me, Mayor of the City of Carmel, Indiana, this ____ day of _____,
26 2006 at __:__ P.M.

27
28 _____
29 James Brainard, Mayor

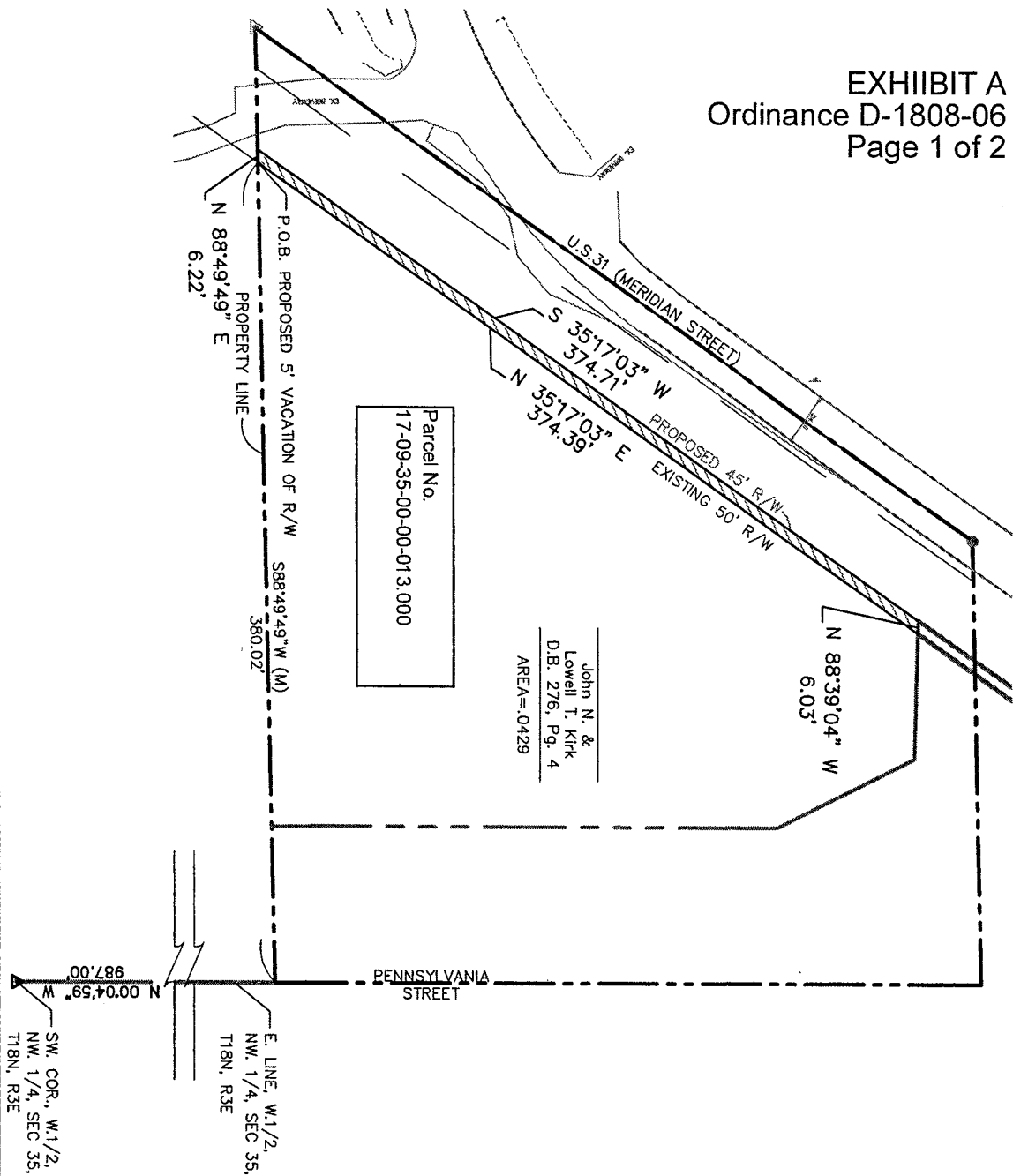
30 ATTEST:

31
32
33 _____
34 Diana L. Cordray, IAMC, Clerk Treasurer

35
36
37 Prepared by: Paul G. Reis, Attorney at Law, Bose McKinney & Evans LLP, 600 E. 96th Street, Suite 500, Indianapolis,
38 IN 46240
39

1 I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social
2 Security number in this document, unless required by law.

3
4
5 _____
6 Paul G. Reis



PROPOSED RIGHT OF WAY VACATION(5')

SCALE 1"=60'



Designers Engineers Surveyors
5015 9th Street, Suite 100, Noblesville, IN, 46060
Phone: 317.770.1801 Fax: 317.770.1821
Toll Free: 1.800.801.8888

PINNACLE POINT MEDICAL BUILDING

2005-0052
CARMEL INDIANA
CLIENT NO. N/A

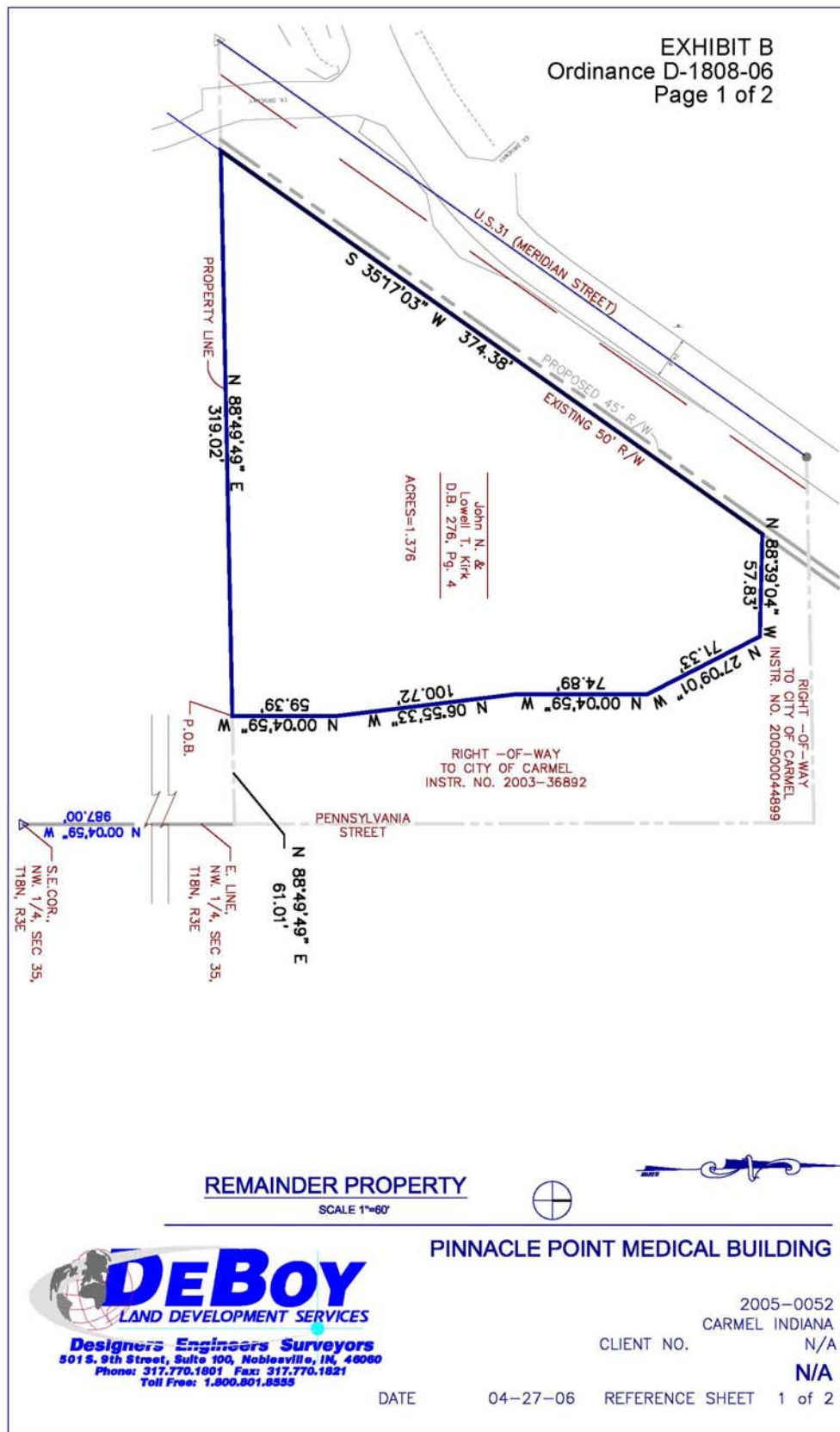
N/A

DATE 03-27-06 REFERENCE SHEET 1 of 2

LAND DESCRIPTION
RIGHT-OF-WAY VACATION – OLD MERDIAN STREET

A strip of land, 5.00 feet in width, over a part of the West Half of the Northwest Quarter of Section 35, Township 18 North, Range 3 East of the 2nd Principal Meridian, Clay Township Hamilton County, Indiana being more particularly described as follows:

Commencing at the Southwest corner of said quarter section; thence on and along the East line thereof North 00°04'59" West (assumed bearing), a distance of 987.00 feet; thence South 88°49'49" West a distance of 380.02 to the East right-of-way line of US 31 (Meridian Street) being the POINT OF BEGINNING of the herein described easement; thence North 35°17'03" East a distance of 374.39 feet; thence North 88°39'04" West a distance of 6.03 feet; thence South 35°17'03" West a distance of 374.71 feet to the South line of the owner's land; thence North 88°49'49" East 6.22 feet to the POINT OF BEGINNING; Containing 0.0429 acres, more or less.



PARCEL NO. 17-09-35-00-00-013.00

ADJACENT LAND DESCRIPTION

Part of the Northwest Quarter of Section 35, Township 18 North, Range 3 East, 2nd P.M, Clay Township, Hamilton County, Indiana, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of the Northwest Quarter of Section 35, Township 18 North, Range 3 East; thence on the East line of said quarter section, North 00°04'59" West (assumed bearing) a distance of 987.00 feet to the Southeast corner of land described in a deed to John N. and Lowell T. Kirk, the deed of which is recorded in Deed Book 276, page 4 in the Office of the Hamilton County, Indiana Recorder; thence parallel with the South line of said quarter section and on the South line of said Kirk parcel, South 88°49'49" West 61.01 feet to the Southwest corner of land described in a Condemnation of Real Property, Hamilton County Superior Court No. 1, Cause No 29000.000-CP 0001, recorded as Instrument No. 2003-36892 in the Office of the Recorder of Hamilton County, Indiana, being the POINT OF BEGINNING of the herein described real estate; thence on the West line of said condemnation the following three courses: 1) North 00°04'59" West 59.39 feet to Point #132; 2) North 06°55'33" West 100.72 feet to Point #271; 3) North 00°04'59" West 74.89 feet to the Southeast corner of a Right-of-way Dedication to the City of Carmel, Indiana, recorded as Instrument #2005-44899 in said Recorder's Office; thence on the South line of said grant the following two courses: North 27°09'01" West 71.33 feet; 2) North 88°39'04" West 57.83 feet to a point on the easterly right-of-way line (50-foot half right-of-way) of Old U.S. #31 (a.k.a. Meridian Street); thence on said easterly line, South 35°17'03" West 374.38 feet to the South line of said Kirk parcel; thence on the South line of said Kirk parcel and parallel with the South line of the aforesaid Northwest Quarter Section, North 88°49'49" East 319.02 feet to the Point of Beginning; containing 1.376 acres, more or less.

ORDINANCE D-1809-06

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF CARMEL, INDIANA,
VACATING A PLATTED RIGHT-OF-WAY**

WHEREAS, there is a platted subdivision known as “Rolling Meadows” in the City of Carmel, Hamilton County, Indiana; and

WHEREAS, within that platted subdivision, there is a platted, undeveloped, unnamed street and right-of-way adjacent to Pearl Street, between Lots 27 and 28 of the subdivision (the “Property”) as more particularly described in the attached Exhibit A; and

WHEREAS, the Property is the access for Lot 53 to a public street known as Pearl Street; and

WHEREAS, the current owners of Lot 53 have properly petitioned for the City to vacate such platted street and right of way; and

WHEREAS, the City Engineer and the City Legal Departments, having reviewed the Petition, find it to be in order; and

WHEREAS, the Board of Public Works and Safety has reviewed the pertinent information and recommended approval of the Petition; and

WHEREAS, the platted street and right-of-way have not been developed as a street, and as they currently exists cannot be developed as a street, although the Property contains the driveway connecting Lot 53 to Pearl Street; and

WHEREAS, the adjacent landowners of adjoining Lots 27 and 28 consent to the vacation of the platted street and right-of-way, as detailed in attached Exhibit B;

WHEREAS, there has been no evidence of probative value presented in opposition to the vacation at the public hearing held regarding said vacation; and,

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Carmel, Indiana, as follows:

Section 1. Pursuant to Indiana Code 36-7-3-12, those portions of the platted street and right-of-way described in the attached Exhibit A are hereby vacated as public right-of-way and title as such vacated right-of-way hereby is conveyed to, and is vested in, the owner of the real estate served by said rights-of-way, being the owner of Lot 53.

Section 2. The above vacation shall not be effective as to the interest to any public utilities located within the above right-of-way.

Section 3. All prior Ordinance or parts inconsistent with any provisions of this Ordinance are hereby repealed.

Section 4: This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

PASSED by the Common Council of the City of Carmel, Indiana this ____day of _____, 2006 by a vote of ____ayes and ____nays.

COMMON COUNCIL FOR THE CITY OF CARMEL, INDIANA

Presiding Officer	Joseph C. Griffiths
Richard L. Sharp, President Pro Tempore	Kevin Kirby
Ronald E. Carter	Brian D. Mayo
Fredrick J. Glaser	Mark Rattermann

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

Presented by me to the Mayor of the City of Carmel, Indiana, this ____ day of _____ 2006, at _____ O'clock, _____. M.

Diana L. Cordray, IAMC, Clerk-Treasurer

Approved by me, Mayor of the City of Carmel, Indiana, this ____ day of _____ 2006, at _____ O'clock, _____. M.

James Brainard, Mayor

ATTEST:

Diana L. Cordray, IAMC, Clerk-Treasurer

This document prepared by: Thomas D. Perkins, Assistant City Attorney for the City of Carmel.

BOUNDARY STAKE SURVEY

ROLLING MEADOWS ADDITION

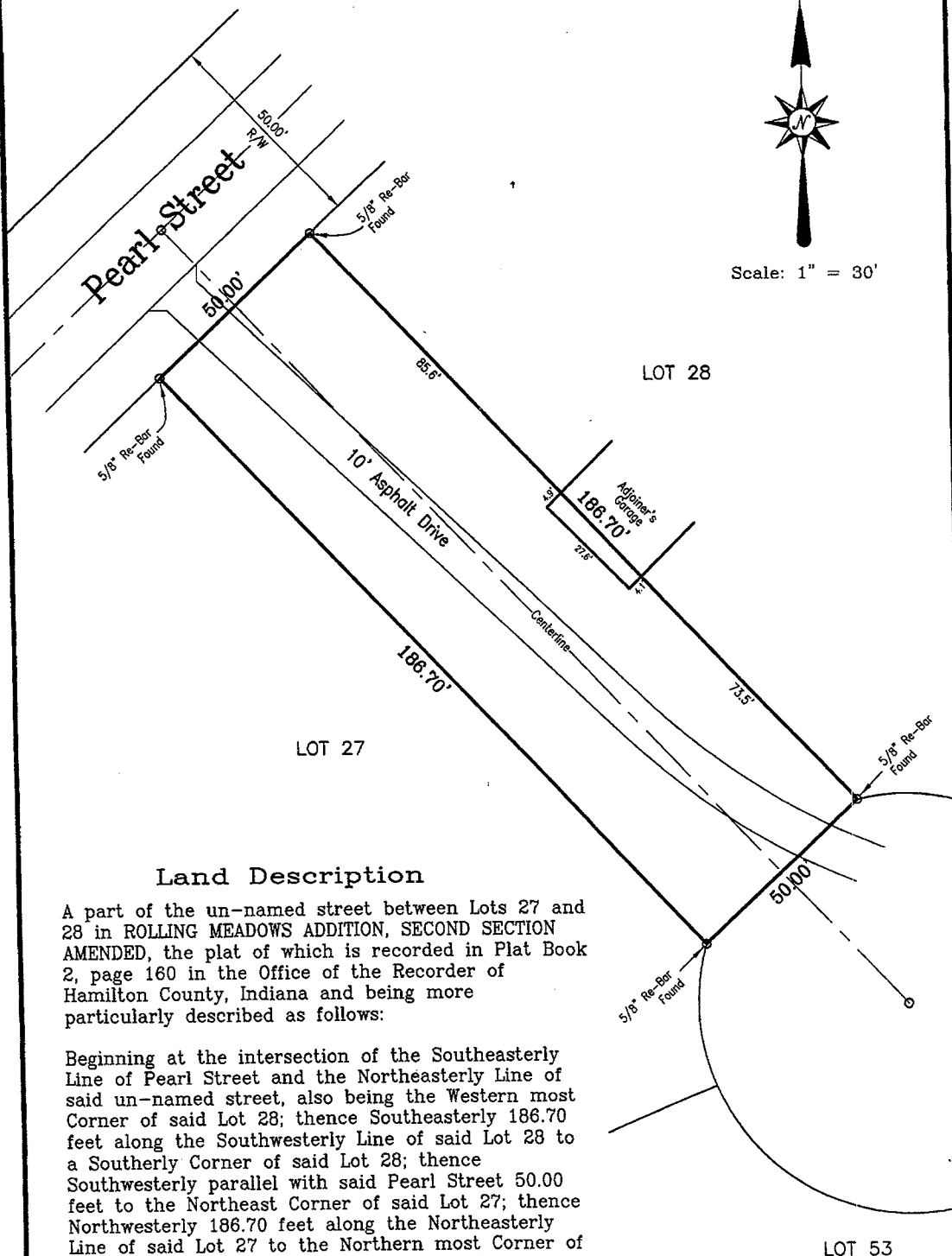
SECOND SECTION AMENDED

0.214 Acres \pm

167 Pearl Street, Carmel, IN



Scale: 1" = 30'



Land Description

A part of the un-named street between Lots 27 and 28 in ROLLING MEADOWS ADDITION, SECOND SECTION AMENDED, the plat of which is recorded in Plat Book 2, page 160 in the Office of the Recorder of Hamilton County, Indiana and being more particularly described as follows:

Beginning at the intersection of the Southeasterly Line of Pearl Street and the Northeasterly Line of said un-named street, also being the Western most Corner of said Lot 28; thence Southeasterly 186.70 feet along the Southwestery Line of said Lot 28 to a Southerly Corner of said Lot 28; thence Southwestery parallel with said Pearl Street 50.00 feet to the Northeast Corner of said Lot 27; thence Northwestery 186.70 feet along the Northeasterly Line of said Lot 27 to the Northern most Corner of said Lot 27; thence Northeasterly along the Southeasterly Line of said Pearl Street extended, 50.00 feet to the point of beginning.

Prepared By:
POLARIS LAND SURVEYING
10130 East 96th Street
Fishers, Indiana 46038
(317) 849-4877 fax (317) 849-4926

Certificate of Survey

I, Robert D. Peterson, duly licensed Land Surveyor in accordance with the laws of the State of Indiana do hereby certify that to the best of my professional knowledge, information and belief, the within plat represents a survey made under my supervision on July 28th, 2005 on the following described tract:

A part of the un-named street between Lots 27 and 28 in ROLLING MEADOWS ADDITION, SECOND SECTION AMENDED, the plat of which is recorded in Plat Book 2, page 160 in the Office of the Recorder of Hamilton County, Indiana and being more particularly described as follows:

Beginning at the intersection of the Southeasterly Line of Pearl Street and the Northeasterly Line of said un-named street, also being the Western most Corner of said Lot 28; thence Southeasterly 186.70 feet along the Southwesterly Line of said Lot 28 to a Southerly Corner of said Lot 28; thence Southwesterly parallel with said Pearl Street 50.00 feet to the Northeast Corner of said Lot 27; thence Northwesterly 186.70 feet along the Northeasterly Line of said Lot 27 to the Northern most Corner of said Lot 27; thence Northeasterly along the Southeasterly Line of said Pearl Street extended, 50.00 feet to the point of beginning.

In accordance with **Title 865, Article 1, Chapter 12 of the Indiana Administrative Code** (Rule 12), the following observation and opinions are submitted regarding the various uncertainties in the locations of the lines and corners established this survey as a result of uncertainties in reference monumentation; in recorded descriptions and plats; in lines of occupation; and as introduced by random errors in measurement ("**Theoretical Uncertainty**"). There may be unwritten rights associated with these uncertainties. The client should assume there is an amount of uncertainty along any line equal in magnitude to the discrepancy in the location of the lines of possession from the surveyed lines. All survey monuments set or found this survey are flush with the existing grade unless otherwise noted.

The Theoretical Uncertainty (due to random errors in measurement) of the corners of the subject tract established this survey is within the specifications for a "Class "B" Survey" (0.25 feet) as defined in IAC 865.


The uncertainty associated with the corners set this survey as related to variances in reference monumentation is 0.04 feet; as related to discrepancies in the record deed is 0.00 feet; and as related to inconsistencies in lines of possession is 4.9'. The Adjoiner's Garage encroaches the Northeasterly Line 4.9 feet.

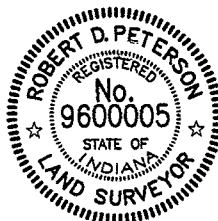
The monumentation used this survey consisted of existing centerline control monuments, and various survey markers found per Record Plat thereof.

All corners of the subject lot were monumented, as shown on the attached plat of survey with a 5/8" rebar and set flush with existing grade, unless otherwise noted.

No investigation or independent search was made for easements of record, encumbrances, restrictive covenants, ownership title evidence, ownership title evidence of the adjoiners or any other facts that an accurate and current title search may disclose.

WITNESS my hand and Registered Land Surveyors Seal this 11th day of August, 2005.


Robert D. Peterson
Registered Land Surveyor
State of Indiana No. 9600005



Prepared By:
POLARIS LAND SURVEYING
10130 East 96th Street
Fishers, Indiana 46038
(317) 849-4877 fax (317) 849-4926

CONSENT TO PETITION TO VACATE RIGHT OF WAY

James Michael Butts and Billie Jo Butts, property owners of Lot 28, 163 Pearl Street, in the Rolling Meadows Subdivision, in Carmel, Indiana, do hereby consent to the Petition to Vacate Right of Way being submitted to the Carmel Board of Works on behalf of Joseph S. Nedder and Karen R. Nedder to vacate the right of way in the Rolling Meadows Subdivision with the following legal description:

A part of the un-named street between Lots 27 and 28 in "Rolling Meadows" Addition, Second Section, Amended, the plat of which is recorded in Plat Book 2, page 160, in the Office of the Recorder of Hamilton County, Indiana, and being more particularly described as follows:

Beginning at the intersection of the Southeasterly line of Pearl Street and the Northeasterly line of said un-named street, also being the Western most corner of said Lot 28; thence Southeasterly 186.70 feet along the Southeasterly line of said Lot 28 to a Southerly corner of said Lot 28; thence Southwesterly, parallel with said Pearl Street, 50.00 feet to the Northeast Corner of said Lot 27; thence Northwesterly 186.70 feet along the Northeasterly line of said Lot 27 to the Northern most corner of said Lot 27; thence Northeasterly along the Southeasterly line of said Pearl Street, extended, 50.00 feet to the point of the beginning.

Dated: 17 MAY 05


James Michael Butts


Billie Jo Butts

CONSENT TO PETITION TO VACATE RIGHT OF WAY

Katrina Nelson Thomas, property owner of Lot 27, 171 Pearl Street, in the Rolling Meadows Subdivision, in Carmel, Indiana, does hereby consent to the Petition to Vacate Right of Way being submitted to the Carmel Board of Works on behalf of Joseph S. Nedder and Karen R. Nedder to vacate the right of way in the Rolling Meadows Subdivision with the following legal description:

A part of the un-named street between Lots 27 and 28 in "Rolling Meadows" Addition, Second Section, Amended, the plat of which is recorded in Plat Book 2, page 160, in the Office of the Recorder of Hamilton County, Indiana, and being more particularly described as follows:

Beginning at the intersection of the Southeasterly line of Pearl Street and the Northeasterly line of said un-named street, also being the Western most corner of said Lot 28; thence Southeasterly 186.70 feet along the Southeasterly line of said Lot 28 to a Southerly corner of said Lot 28; thence Southwesterly, parallel with said Pearl Street, 50.00 feet to the Northeast Corner of said Lot 27; thence Northwesterly 186.70 feet along the Northeasterly line of said Lot 27 to the Northern most corner of said Lot 27; thence Northeasterly along the Southeasterly line of said Pearl Street, extended, 50.00 feet to the point of the beginning.

Dated:

6/22/2005

Katrina Nelson Thomas
Katrina Nelson Thomas

"EXHIBIT B 2/2"

ORDINANCE D-1813-06

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF CARMEL,
INDIANA, APPROVING AND ADOPTING INTERLOCAL AGREEMENT**

WHEREAS, Indiana Code 36-1-7 authorizes cooperative endeavors between governmental entities so as to better and more economically and efficiently serve the public health, safety and welfare; and

WHEREAS, Indiana Code 36-1-7-2 authorizes the Common Council to approve such “interlocal agreements”; and

WHEREAS, the “interlocal agreement” by and between the City of Carmel, Indiana, an Indiana Municipal Corporation, the Prosecuting Attorney for the 24th Judicial Circuit, Hamilton County, Indiana, and the Auditor of Hamilton County, Indiana, pertaining to providing law enforcement officers employed with the City of Carmel greater access to a Deputy Prosecuting Attorney, with office space located on site at the City of Carmel Police Department, a copy of which is attached hereto and incorporated herein as Exhibit A (the “Interlocal Agreement”), is in the best interests of the City of Carmel and its residents; and

WHEREAS, it is necessary and proper to create a separate City fund for the receipt and disbursement of monies pursuant to the terms of the Interlocal Agreement and applicable law.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Carmel, Indiana, that:

Section 1. The foregoing Recitals are fully incorporated herein by this reference.

Section 2. The Interlocal Agreement should be and is hereby approved and adopted by the Common Council of the City of Carmel, Indiana.

Section 3. The Clerk-Treasurer is hereby directed to file a copy of the Interlocal Agreement with the Hamilton County Recorder and State Board of Accounts within the time periods established by Indiana Code 36-1-7-6.

Section 4. There is hereby created a “Community Prosecution Attorney Fund” to be administrated by the Clerk-Treasurer and which shall be used for the receipt and disbursement of monies received pursuant to the terms of the Interlocal Agreement and for the purpose creating a part-time Community Prosecution Deputy position within the City of Carmel.

Section 5. This Ordinance shall be in full force and effect from and after the date of its passage, execution by the Mayor and such publication as is required by law.

PASSED by the Common County of the city of Carmel, Indiana this _____ day of _____, 2006 by a vote of _____ ayes and _____ nays.

1
2 **COMMON COUNCIL FOR THE CITY OF CARMEL**
3
4

5 _____
6 Presiding Officer

_____ Joseph C. Griffiths

7 _____
8 Richard L. Sharp, President Pro Tempore

_____ Kevin Kirby

9 _____
10 Ronald E. Carter

_____ Brian D. Mayo

11 _____
12 Fredrick J. Glaser

_____ Mark Rattermann

13
14
15
16 ATTEST:

17
18
19 _____
20 Diana L. Cordray, IAMC, Clerk-Treasurer

21
22
23 Presented by me to the Mayor of the City of Carmel, Indiana this ____ day of
24 _____ 2006, at _____.M.

25
26
27 _____
28 Diana L. Cordray, IAMC, Clerk-Treasurer

29
30
31 Approved by me, Mayor of the City of Carmel, Indiana, this ____ day of
32 _____ 2006, at _____.M.

33
34
35 _____
36 James Brainard, Mayor

37
38 ATTEST:

39
40
41 _____
42 Diana L. Cordray, IAMC, Clerk-Treasurer

43
44 Prepared by: Carmel Assistant Chief of Police, Tim Green, Three Civic Square, Carmel, IN 46032